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*ATTORNEYS FOR AMICUS  
ROSEBUD COUNTY*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

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MONTANA ENVIRONMENTAL	)	Case No. CV 19-130-BLG-SPW-TJC
INFORMATION CENTER,	)	
INDIAN PEOPLE’S ACTION,	)	
350 MONTANA, SIERRA CLUB,	)	
WILDEARTH GUARDIAN,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
DAVID BERNHARDT, et al.,	)	
	)	
Defendants,	)	
	)	
and	)	
	)	
WESTMORELAND ROSEBUD	)	
MINING, LLC, et al.,	)	
	)	
Intervenors.	)	

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**ROSEBUD COUNTY’S  
AMICUS BRIEF  
IN OPPOSITION TO  
PLAINTIFFS’ MOTION FOR  
PRELIMINARY INJUNCTION**

Rosebud County (the “County”), pursuant to this Court’s Order dated October 8, 2020 (Doc. 87), hereby files its amicus brief in opposition to Plaintiffs’ Motion for a Preliminary Injunction (Doc. 62).

## **I. BACKGROUND**

Rosebud County is the fourth largest County in Montana by land area, covering more than 5,000 square miles. *See* Declaration of County Commissioner Douglas D. Martens, attached hereto as Exhibit 1, at ¶ 2. The County is sparsely populated, however. With just over 9,000 residents, it ranks twenty-second in Montana in terms of population. *Id.* Leading sources of income in Rosebud County include coal mining at the Rosebud Mine (the “Mine”) and electrical generation at the Colstrip Power Plant (the “Power Plant”). *Id.* at ¶ 3. Residents from around the County commute to Colstrip daily to work there. *Id.* at ¶ 4. The Mine and Power Plant are a key driver of the County’s economy. *Id.* Should the mining of Area F be stopped, the County estimates that approximately 315 jobs at the Mine and another 360 jobs at the Power Plant would be lost. *Id.* In addition, there would be a loss of jobs from subcontractors who perform essential skills that supplement those working directly for the Mine and Power Plant. *Id.* Such a loss would be devastating to Rosebud County, its residents, and its economy. *Id.*

Rosebud County and its residents rely heavily upon the taxes generated by the coal mining and the federal mineral royalty funds to provide basic service to the County and its residents. *Id.* at ¶ 5. Total federal mineral royalty revenues received by the County in the last three years has averaged between \$1.5 million and \$1.9 million dollars. *Id.* The County estimates that it is 80% dependent upon coal revenues for its operations. *Id.*

Coal tax revenue supports the County's law enforcement. *Id.* at ¶ 6. The Rosebud County Sheriff's Office maintains offices in Forsyth, Colstrip, and Ashland, and its officers regularly patrol the County. *Id.* In addition, the detention facility in Forsyth can house up to 26 inmates. *Id.* The Sheriff's Office employs four full-time dispatchers, who dispatch for the Sheriff's Office, maintain contact with the Montana Highway Patrol and Game Wardens, and are responsible for paging Disaster and Emergency Services, Forsyth and Ashland Ambulances, and Rural County Fire Departments. *Id.*

Coal tax money supports the County's Emergency Medical Services ("EMS") program. *Id.* at ¶ 7. The EMS program is staffed by a group of more than twenty EMTs and Paramedics. *Id.* The EMS program provides 24-hour coverage, with a fleet of five ambulances and a quick response supervisor vehicle. *Id.*

The County's Justice Court receives support from coal tax revenues.

*Id.* at ¶ 8. One Justice of the Peace and two Clerks of Justice Court are available to help resolve disputes including small claims action under \$7,000, civil actions under \$12,000, landlord/tenant disputes, domestic protective orders, Highway Patrol and Sheriff's Office citations, Fish and Game Citations, misdemeanors, and a host of other matters for the County. *Id.*

Coal tax revenues help fund the Rosebud County Road Department, which manages construction and maintenance of county roads and bridges. *Id.* at ¶ 9. More than a dozen crew members maintain approximately 1,100 miles of County roads. *Id.* The Road Department staffs its main shop in Forsyth and three outlying shops in Angela, Birney, and Ingomar. *Id.*

The Rosebud County Extension Office utilizes coal tax revenue to support its mission to improve the lives of Montana citizens by providing unbiased, research-based education and information that integrates learning, discovery, and engagement to strengthen the social, economic, and environmental well-being of individuals, families, and communities. *Id.* at ¶ 10. Two extension agents and a secretary are employed by the County Extension Office. *Id.*

Coal tax money supports the Rosebud County Senior Citizens program, which employs five individuals and provides five hot meals a week at sites in Forsyth, Colstrip, and Ashland. *Id.* at ¶ 11. The program also provides activities for seniors (including exercise classes, games, and arthritis classes), health screenings (such as blood pressure, foot clinics, and flu shots), transportation to Billings and Miles City for medical needs, respite/personal care, and commodity boxes. *Id.*

Coal tax money also helps fund the following activities and services for the County:

- A rural fire department (wildland only);
- Disaster and Emergency Services Department, which is responsible for disaster planning and mitigation on a County-wide basis;
- Airports: Ricks Field in Colstrip and Tillitt Field in Forsyth;
- Rosebud County Elections Administrator;
- County Attorney's Office;
- Two County Libraries, in Colstrip and Forsyth;
- The Rosebud County Museum, which was built in 1966, with a new wing added in 1982 and two additions in 2005;

- Rosebud County Public Health Department, with offices in Colstrip and Forsyth, employing six individuals;
- County Weed Control Department; and
- Rosebud County Cemetery, with sites in both Forsyth and Colstrip.

*Id.* at ¶ 12.

Taxes from coal production also currently provide 10% of the funding for Montana State Parks, according to a May 4, 2016 report to the Environmental Quality Council. *Id.* at ¶ 13. Funds are allocated from the coal tax to protect works of art in the State Capitol and for other cultural and aesthetic projects. *Id.* The Big Sky Economic Development Fund that provides grants and loans to local and tribal governments for job creation benefits, and certified regional development corporations along with economic development organizations, all receive funding from the coal tax. *Id.*

The instant litigation would bring an end to a revenue source that has supported the County for generations.

## **II. ARGUMENT**

Rosebud County joins in the Argument Section of the Amicus Brief submitted by the City of Colstrip. Rosebud County lends its voice in

demonstrating that the local hardships will extend beyond Colstrip – to Forsyth, Rosebud, Ingomar, Angela, and all areas of Rosebud County – if Plaintiffs are granted a preliminary injunction. Residents across the County work at the Mine and the Power Plant. The reach of coal tax revenues is County-wide. The County echoes the sentiment of Colstrip’s brief: the balance of harms tips in favor of those who will be impacted by the closure of the Mine and Power Plants, which includes not only Colstrip and its residents, but all of Rosebud County and its residents, as well. The public interest is satisfied by keeping the Mine open, and allowing those most directly impacted by the Mine and Power Plant to benefit from their continued operation.

### **III. CONCLUSION**

Like the City of Colstrip, Rosebud County is keenly aware that it relies on the coal and power industries to support its operations and its economy. Closing down the Mine would devastate the County, causing harm to the 9,000-plus residents that call the County home. The Court should deny Plaintiffs’ request for a preliminary injunction for the reasons set forth above, and as stated in the City of Colstrip’s brief.

DATED this 15th day of October, 2020.

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**CERTIFICATE OF COMPLIANCE**

The undersigned, Michelle M. Sullivan, certifies that this Amicus Brief complies with the requirements of Rule 7.1(d)(2). The lines in this document are double spaced, except for footnotes and quoted and indented material, and the document is proportionately spaced with Times New Roman Font typeface consisting of fourteen characters per inch. The total word count of this Brief is less than 6,500 words, excluding caption and certificates of compliance and service. The undersigned relies on the word count of the word processing system used to prepare this document.

\_\_\_\_\_  
/s/ Michelle M. Sullivan  
Michelle M. Sullivan

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of October, 2020, I filed the foregoing document electronically through the CM/ECF system, which caused all counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/ Michelle M. Sullivan  
Michelle M. Sullivan